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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,731	08/21/2003	Francois Vardon	241763US6 DIV	6198
22850	7590	06/01/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/644,731		VARDON, FRANCOIS	
	Examiner		Art Unit	
	Janet M. Wilkens		3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,8 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,8 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>2/9/2006 (revised)</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/3/06</u> | 6) <input type="checkbox"/> Other: _____ |

Terminal Disclaimer

The terminal disclaimer filed on March 3, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 11/010,260, 11/147,225 and 11/009,087 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tabs must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 7, 8, and 22-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Namely, nowhere in the specification or drawings, as originally filed, are the tabs on the frame disclosed. Note: although the shelf shown during the interview of February 9, 2006 included tabs, upon review of the present application, it was discovered that no tabs exist in the embodiment disclosed.

Claims 1, 7, 8 and 22-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Namely, how the specific pressure range of 5-15 MPa was derived is unclear. Only a brief statement regarding this pressure appears in the specification.

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Also, if this pressure is different from what would inherently/naturally occur during the final shrinkage of this type of plastic with respect to a panel, it is unclear how what the applicant is doing is unique; this shrinkage process already being well known as shown by the prior art (see for example Goyette et al 6,045,101).

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 26, the scope of this claim is unclear since claim 24, on which claim 26 is dependent, is directed to a shelf not a refrigerator.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 22, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goyette et al (6,045,101). Goyette teaches a refrigerator shelf (Fig. 1) comprised of a panel (22) and a plastic/polypropylene structure (21) permanently attached to the panel at its edges (Note: if never separate pieces, they are permanently attached) and holding the panel in a recess thereof "via a compressive lateral pressure" (formed by shrinkage of the structure; similar to the process specified in the disclosed invention). The structure further includes tabs (29, 34, 40). The shelf slides with respect to supports in a refrigerator via grooves (54). For claims 1, 22, 24 and 25, Goyette fails

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to teach a specific pressure that holds the panel and structure together (although the pressure naturally provided may be in this range). However, it would have been an obvious consideration to one of ordinary skill in the art at the time of the invention to use whatever pressure was necessary, including a MPa of between 5-15 or between 8-10, depending on the desired need of the person constructing the shelf. (Engineering calculations, using the coefficient of thermal expansion of the specific plastic, being used to determine the proper pressure range.) Note: as stated above, no reason or calculation is discussed in the specification, as originally disclosed, as to the uniqueness of this range. Note: product by process limitations are given no weight in an article claim.

Claim 7 is rejected under 35 U.S.C. 103(a) as obvious over Goyette et al (6,045,101) in view of Caruso et al (5,641,217). As stated above, Goyette teaches the limitations of claim 1, including a shelf with a plastic structure and panel. For claim 7, Goyette fails to teach an assembly element attached under the shelf. Caruso teaches a refrigerator (Fig. 1) having a shelf (12) comprised of a panel (30) and a plastic structure (34) attached to the panel at its edges. Furthermore, assembly elements (16) having first, second and third parts (56,28 and 54, respectively) are attached to the bottom of the shelf to support a drawer (14). It would have been obvious to one of ordinary skill in the art at the time of the invention add assembly elements on the bottom of the shelf of Goyette, such as is taught by Caruso, to provide additional storage, i.e. a drawer, below and adjacent the shelf.

Claims 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goyette et al I(6,045,101) in view of Cherry et al (5,228,764). Goyette teaches a shelf (Fig. 1) made up of a plastic structure (21) forming an internal U-shaped recess/channel which holds a glass panel (22) therein via lateral pressure. For claims 23 and 26, Goyette fails to teach a bond/adhesive between the glass and plastic structure. Cherry teaches a shelf wherein a glass sheet is held in a frame channel via adhesive (see column 2, lines 59-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of Goyette by adding adhesive between its structure and glass panel, such as is taught by Cherry, to provide a means to additionally securely/permanently hold the glass panel within the structure channel, to provide a means that would fill in gaps between the panel and structure (in places not held by the lateral pressure), etc.

Response to Arguments

Applicant's arguments filed March 3, 2006 have been fully considered but they are not persuasive.

As stated above, specifics concerning the lateral pressure range are unclear. In order to determine whether or not this range is unique or simply an inherent result following the final shrinkage process, more information needs to be disclosed. Also, since no tabs are disclosed in the embodiment shown, this feature raises further issues in the case.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

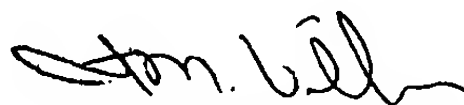
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkins
May 26, 2006


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637